

Doc Code: AP.PRE.REQ

PTO/SB/33 (10-08)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) FUJO 20.505 (100794-00455)	
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	First Named Inventor  Tetsuya Yano		
	Art Unit  2619	Examiner  Hicham B. Foud	
	Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.  This request is being filed with a notice of appeal.  The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.		
I am the  <input type="checkbox"/> applicant/inventor.  <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)  <input checked="" type="checkbox"/> attorney or agent of record. Registration number 44071		/Dexter T. Chang/  Signature  Dexter T. Chang  Typed or printed name  (212) 940-6384  Telephone number  November 5, 2008  Date	
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____			
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			
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**Attorney Docket No.: 100794-00455 (FUJO 20.505)**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Inventor(s): Tetsuya YANO et al.  
Confirmation No.: 9952  
Serial No.: 10/616,067  
Filed: July 9, 2003  
Title: **OUTER-LOOP POWER CONTROL DEVICE ...**  
Examiner: Hicham B. Foud  
Group Art Unit: 2619

November 5, 2008

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

SIR:

Applicants hereby petition for a two-month extension, a petition pursuant to 37 C.F.R. §1.136(a) and authorization to charge the requisite fee being enclosed.

In connection with the Pre-Appeal Brief Request for Review submitted herewith and in response to the final Office Action dated June 5, 2008, Applicants request a panel review to determine whether the Examiner has failed to properly establish bases for a § 102 rejection of pending claims 1 and 12 in the subject application. And, in support thereof, Applicants respectfully submit the following:

## **REMARKS**

Claims 1-13 are pending in the application.

Applicants, again, acknowledge with appreciation the Examiner's allowance of claim 13 and the finding that claims 2-11 contain allowable subject matter. Applicants respectfully submit that claim 1, from which claims 2-11 depend, is patentable over the reference cited against it, as demonstrated below. As such, Applicants respectfully request that the Examiner also allow claims 2-11, which depend from allowable claim 1.

Claims 1 and 12 stand rejected under 35 U.S.C. 102(b) as being anticipated by "Outer-loop control of target SIR for fast transmit power control in turbo-coded W-CDMA mobile radio" by Kawai et al. Applicants respectfully traverse the rejection.

The Examiner cited the description in Kawai et al. of a target SIR controller and the description therein of:

"[t]he intermediate decoding output [from] the turbo decoder is used to measure the FER and, based on this measurement, the target SIR is adjusted";

as alleged disclosure of the claimed reference signal-to-interference power ratio modifying features. Page 700, col. 2, "Conclusion" lines 3-5 of Kawai et al.

The cited portions of Kawai et al. only include, however, the above-noted description of adjusting target SIR based on measurement of a frame error rate ("FER"). And such portions, therefore, do not disclose the claimed features of changing a size of a unit increment and/or unit decrement, where a reference signal-to-interference power ratio is modified by a plurality of the unit increment or unit decrement based on a measured error rate.

Indeed, page 700, col. 2, lines 2-8 of Kawai et al. only includes the following:

"In Fig. 1, FER[2] is measured by counting the number of error frames,  $c$ , produced in  $K$  frames ( $c/K$  corresponds to measured FER[2]) and is compared to two thresholds  $c_-$  and  $c_+$ . The target SIR controller then raises or lowers the target SIR by  $\Delta_{out}$  dB if  $c > c_+$ , or if  $c < c_-$ , respectively. The value of  $\Delta_{out}$

must be smaller than the transmit power up-and-down factor (= 1dB in the simulation) of fast TPC.” (Emphasis added)

In other words, Kawai et al., as cited and relied upon by the Examiner, only describe comparing counted error frames to two thresholds, and raising and lowering a target SIR by a single  $\Delta_{out}$  value, which must be smaller than a transmit power up-and-down factor of fast TPC, based on the comparison. And as such, Kawai et al., as cited and relied upon by the Examiner, at least fail to disclose

“a reference signal-to-interference power ratio modification unit setting either an observation time period of an error rate or a number of target observation blocks of the error rate, a unit increment of a reference signal-to-interference power ratio, a unit decrement of the reference signal-to-interference power ratio and a target signal error rate in such a way to satisfy a prescribed relation equation, changing a size of one or more of the unit increment and the unit decrement of the reference signal-to-interference power ratio according to the measured error rate, and modifying the reference signal-to-interference power ratio *by a plurality of the unit increment or unit decrement based on the measured error rate.*” as claimed.

Accordingly, Applicant respectfully submits that claim 1 is patentable over Kawai et al. for at least the foregoing reasons. Claim 12 incorporates features that correspond to those of claim 1 cited above, and is, therefore, patentable over Kawai et al. for at least the same reasons.

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,

/Dexter T. Chang/

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